

**REMARKS**

This reply is in response to the Office Action dated June 23, 2009. Claims 1-9 are pending in the application and stand rejected. Applicant has amended claims 1-9 to more clearly recite aspects of the invention and has added new claims 10-20. No new matter has been added. Entry of the foregoing amendments and reconsideration of the claims is respectfully requested.

**Claim Rejections – 35 U.S.C. § 112**

Claim 3 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter by omitting essential steps. Applicant has amended claim 3, thereby obviating the rejection. Accordingly, withdrawal of the rejection and allowance of the claims is respectfully requested.

**Claim Rejections – 35 U.S.C. § 101**

Claims 8 and 9 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicant has amended claims 8 and 9, thereby obviating the rejection. Accordingly, withdrawal of the rejection and allowance of the claims is respectfully requested.

**Claim Rejections – 35 U.S.C. § 102**

Claims 1-5 and 7-8 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Zierolf (U.S. Patent No. 6,178,370; hereafter "Zierolf"). Applicant has amended claims 1-5 and 7-8, thereby obviating the rejection.

Applicant submits that *Zierolf* does not teach, show, or suggest measuring deceleration of the vehicle, as required in independent claims 1 and 2. In contrast, *Zierolf* discloses obtaining an estimated deceleration of a wheel by differentiating wheel speed measured with a sensor. The estimated deceleration of the wheel in *Zierolf* is not the same as the measured deceleration of the vehicle recited in Applicant's claims. Indeed, a

vehicle's deceleration can be completely independent from the deceleration of the wheel of the vehicle, as the wheel can slip or skid on the pavement and have a different deceleration than the vehicle. *Zierolf* further highlights this difference by distinguishing between wheel speed and vehicle speed. *See e.g.*, col. 1, ll. 13-16. As such, *Zierolf* does not teach, show, or suggest measuring deceleration of the vehicle, as required in independent claims 1 and 2.

Further, *Zierolf* does not teach, show, or suggest a brake controller configured to calculate a change in measured deceleration over time, as required in independent claims 1 and 2. In contrast, *Zierolf* discloses a controller for calculating the difference between an estimated deceleration of the wheel and a predefined deceleration threshold taken from a data file. The *Zierolf* calculation is not the same as Applicant's recited calculation, as the predefined deceleration threshold used in the *Zierolf* calculation is not a measured deceleration, as recited in Applicant's claims. As such, *Zierolf* does not teach, show, or suggest a brake controller adapted to calculate a change in measured deceleration over time, as required in independent claims 1 and 2. For at least these reasons, withdrawal of the rejection and allowance of the claims is respectfully requested.

Because claims 4 and 5 include all the limitation of claims 1 and claims 3, 7, and 8 include all the limitation of claims 2, those claims are allowable for at least the same reasons. For at least these reasons, withdrawal of the rejection and allowance of the claims 1-5 and 7-8 is respectfully requested.

#### **Claim Rejections – 35 U.S.C. § 103**

Claims 6 and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Zierolf* as applied to claims 1-5 and 7-8 above, and further in view of official notice.

Applicant has amended claims 6 and 9, obviating the rejection. Since claims 6 and 9 include all the limitation of claims 1 and 2, respectively, claims 6 and 9 are allowable for at least the same reasons. Furthermore, Applicant submits that official notice does not cure the deficiencies of *Zierolf* discussed above, as official notice does not teach what is argued above as missing from *Zierolf*. For at least the reasons listed

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above with respect to claims 1-5 and 7-8, withdrawal of the rejection and allowance of the claims is respectfully requested.

New claims 10-20 include all the limitations of claims 1 and 2, and therefore, are allowable for at least the same reasons discussed above. Allowance of new claims 10-20 is respectfully requested.

**CONCLUSION**

Having addressed all issues set out in the office action, Applicant respectfully submits that the pending claims are now in condition for allowance. Applicant invites the Examiner to telephone the undersigned attorney if there are any issues outstanding which have not been addressed to the Examiner's satisfaction.

Respectfully submitted,

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